

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

| | | |
|---------------------------------------|---|----------------------------|
| Ervin Smalls, #351870, |) | C/A No. 4:19-cv-1139-SAL |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | OPINION & ORDER |
| |) | |
| Don W. Miller, Lieutenant Danley, and |) | |
| Officer Baskins |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

This matter is before the Court for review of the February 11, 2020 Report and Recommendation of United States Magistrate Judge Thomas E. Rogers, III (the “Report”), made in accordance with 28 U.S.C. § 636(b)(1)(A), (B) and Local Civil Rule 73.02(B)(2)(e) (D.S.C.). [ECF No. 61.] In the Report, the Magistrate Judge recommends dismissing Plaintiff’s complaint pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. The Report included a Notice of Right to File Objections, but no party filed objections to the Report and the time for response has lapsed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this Court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court is charged with making a de novo determination of only those portions of the Report that have been specifically objected to, and the Court may accept, reject, or modify the Report, in whole or in part. 28 U.S.C. § 636(b)(1). In the absence of objections, the Court is not required to provide an explanation for adopting the Report and must “only satisfy itself that there is no clear error on the face of the record

in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (citing Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the Report, the applicable law, and the record of this case in accordance with the above standard, the Court finds no clear error, adopts the Report, and incorporates the Report by reference herein. Accordingly, Plaintiff’s complaint is **DISMISSED** and any pending motions are **MOOT**.

IT IS SO ORDERED.

/s/ Sherri A. Lydon
United States District Judge

March 5, 2020
Florence, South Carolina